IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

RFA No. 260 & 261 of 2004

Reserved on : 3.8.2007

Date of Decision : 14.8.2007

RFA No.260 of 2004

LAC & others ….Appellants.

Versus:

Het Ram & others …Respondents.

RFA No.261 of 2004

LAC & others ….Appellants.

Versus:

Het Ram & others …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

RFA No. 260 & 261 of 2004

For the appellants: Mr. C.B.Singh, Dy.Advocate General

For the respondents: Mr. Rahul Mahajan, Advocate.

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Sanjay Karol, J.

The present appeals Nos. 260 and 261 of 2004, titled as LAC and others vs. Het Ram are being decided together. In both the appeals the appellants have assailed the impugned award dated 27.8.2003 whereby the compensation assessed by the Collector, for acquisition of the claimants land has been enhanced from Rs.40,000/- to Rs.96,000/- per bigha. The acquired land comprised in Khasra No. 3/1, 85/4/1, 6/1 measuring 3-1 bighas and Khasra No.15/1, 25/1, 27/1, 16/1 measuring 4-9 bighas & 0-13 biswas, situate in village Smooh-Kanetta, Tehsil Arki, Distt. Solan, was acquired for the public purposes, namely, construction of Kunihar Bainjki-Natti-Brahampukhar Shelly road.

The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 9.10.1992. The Collector passed his award No. 7 of 1994 dated 3.1.1995 awarding a sum of Rs.40,000/- per bigha regardless of the classification as compensation for respondents land. Aggrieved by the same the respondents filed a reference petition under Section 18 of the Act.

In support of their claim, the respondents examined Shri Amar Chand (PW-1) and Shri Sant Ram (PW-2) and through them got exhibited copy of sale deeds being Ext.P-1/A to Ext.P-1/C, as also copy of the award passed by the District Judge in another land reference petition dated 6.6.2001 (Ext.P 1/D).

The Court below has determined the market value of the land payable to the respondents based on award passed in

reference petition No. 10-S/4 of 1999 in Anant Ram vs. LAC, which has been exhibited as Ext.P 1/D.

The learned Deputy Advocate General has fairly stated that if one were to consider the evidence including the sale deeds exhibited on record the compensation payable to the land owners would amount to much more than what has been assessed in the impugned award by the District Judge. Perusal of the impugned award shows that the sale deeds have been ignored only for the reason that they pertain to small parcels of land.

Be that as it may be, since the present respondents have not preferred any appeal and even now are not aggrieved by the award, therefore, I am not considering the said sale deeds for determining the compensation payable to the respondents.

The perusal of the award Ext.P 1/D would show that the land acquired therein pertains to the very same village and for the very same public purpose for which the present land has been acquired. There is similarity in the 2 lands with regard to the location and use. The Court below has rightly relied upon the same and arrived at a figure of Rs.96,000/- per bigha as fair market value for determining the compensation payable for the acquired land in question. Importantly, no evidence whatsoever has been led by the appellants in support of their contention in order to rebut the material and evidence placed on record by the respondents.

The learned Advocate General has brought to my notice that the other two connected appeals being RFA No. 258/04 and 259/04 arising of the same impugned award have already been dismissed by this Court on 22.3.2005.

For the foregoing reasons, I see no reason to interfere with the award of the learned District Judge. Consequently, the appeal is dismissed. Miscellaneous applications, if any, stands disposed of.

August 14, 2007
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(Sanjay Karol),
Judge